

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-
II,ALAPPUZHA**

Present:-Ms.Seethal.M.Sasidharan, Judicial First Class Magistrate-II

Dated this the 16th day of March, 2026/ 25th Phalguna 1947

C.C.No. 2457/22

Complainant : State represented by Sub Inspector of Police, Mannancherry Police Station in Crime No.777/19.
(By APP, Alappuzha)

Accused : Akhilesh.S.Nair, 47 years, S/o Sukumaran Nair, House No.34, P&T colony, Gandhinagar, Kadavanthra.P.O, Kochi 20

(By Adv . Lisha Ranjeeth)

Offences : u/S. 304A of IPC

Plea : Not guilty

Finding : Not guilty

Sentence or order : The accused is acquitted of the offence u/s 304 A of IPC , u/S.255(1) Cr.P.C

Description of the accused

Name	Father's/husband's Name	Occupation	Residence	Age
Akhilesh.S.Nair	Sukumaran Nair		House No.34, P&T Colony, Gandhinagar, Kadavanthra.P.O, Kochi 20	47

Dates of

Occurrence	Complaint	Appearance	Period of detention undergone during	Release on bail	Commencement of trial

			investigation, inquiry of trial for the purpose of S.428 Cr.PC		
09.07.2019	14.08.2019	14.08.2023	-	14.08.2023	09.03.2023

Commencement of evidence	Close of trial	Sentence or order	Reason for delay
05.03.2024	13.03.2026	16.03.2026	

This case having been finally heard on 13.03.2026, the Court on 16.03.2026 delivered the following:-

J U D G M E N T

1. This case stands charge sheeted by the Sub Inspector of police, Mannanchery Police Station in crime number 777/19 against the accused alleging offences punishable under section 304 A of Indian Penal Code (hereinafter referred to as IPC).
2. **Prosecution case in brief:-** On 09.07.2019, at around 1:00 p.m., the accused negligently opened the front right-hand door of his car bearing registration number KL-56-G-5586, which was parked in front of the Kalavoor Sub Registrar Office. The opened door struck the bicycle ridden by PW1's uncle, Shaji, who was proceeding from south to north along the road, causing him to fall onto the opposite side. Immediately thereafter, a KSRTC bus bearing registration number KL-15-A-451 (RSC 890), travelling in the same direction, ran over Shaji's body, resulting in grievous injuries from which he ultimately succumbed. Thus the accused is alleged to have committed the offence under Section 304A of the Indian Penal Code for causing death by negligence.
3. On completion of investigation, charge sheet was filed before the

Judicial Magistrate of First Class Court – 1 Alappuzha and it was taken on file of that court as CC 1240/19 and cognizance was taken for the offence under section 304 A of IPC . Thereafter as per order no SS1/21 dtd 07/04/2022 of Hon'ble Chief Judicial Magistrate, Alappuzha the above case was transferred to this court for trial and it was taken on to the file of this court as CC 2457/22.

4. On appearance , accused was enlarged on bail . Copy of prosecution records were served to accused in compliance with section 207 of Code of Criminal Procedure. Particulars of offences under section 304 A IPC, were read over to the accused. Accused pleaded not guilty and claimed to be tried.
5. In order to prove it's case, prosecution examined PW1 to PW14 and Exts P1 to P11 were marked. CW8 was given up by learned Assistant Public Prosecutor. On completion of prosecution evidence, accused was examined u/s 313 (1)(b) of CrPC . He denied all the incriminating circumstances appearing against him in prosecution evidence and pleaded innocence .
6. The defence case is that the accused did not drive his car along the said road on the date of the alleged incident. It is contended that the death of the deceased was caused solely due to the negligence of the KSRTC bus driver. The defence further contends that a false case was initiated against the accused, under the influence of the deceased's daughter, Nisha, who is a police officer, and primarily to secure an insurance claim for the deceased's family. In support of his defence, the accused produced Exhibits D1 and D2, being the certified copies of the impleading petition and the order passed thereon in OP (MV) No. 1393/2019, filed by the wife of the

deceased before the Motor Accident Claims Tribunal ,Alappuzha

7. Heard and perused the records.
8. The following points arose for the consideration of this court :
 1. Did the accused, on 09.07.2019 at around 1:00 p.m., negligently open the door of his car bearing registration number KL-56-G-5586, which he had parked near the Sub Registrar Office, Kalavoor and did the open door struck the bicycle ridden by PW1's uncle, Shaji, causing him to fall onto the road and subsequently be run over by a KSRTC bus?
 2. Did the death of shaji was due to the above negligent act of the accused and thereby he commit offence u/s 304 A of IPC ?
 3. Sentence or Order ?
9. **Points No 1 and 2:-** For the sake of convenience and to avoid repetition of facts, these points are discussed together. The prosecution alleges that on 09.07.2019, at around 1:00 p.m., the accused negligently opened the front right-hand door of his car bearing registration number KL-56-G-5586, which was parked in front of the Kalavoor Sub Registrar Office and the opened door struck the bicycle ridden by PW1's uncle, Shaji, who was proceeding from south to north along the road, causing him to fall onto the opposite side. Immediately thereafter, a KSRTC bus bearing registration number KL-15-A-451 (RSC 890), travelling in the same direction, ran over Shaji's body, resulting in grievous injuries from which he ultimately succumbed. The prosecution relies

on the testimonies of PW1 to PW14 to prove that it was the negligent act of the accused that resulted in the death of Shaji.

10. PW1 is the informant in this case. He deposed that on 09.07.2019, between 12.00 p.m. and 01.00 p.m., his uncle, while riding a bicycle, dashed against the door of a car which had been opened negligently. According to him, as a result of the impact, his uncle fell down on the road and a KSRTC bus ran over him, causing fatal injuries to which he succumbed. PW1 further stated that he had given a statement before the police regarding the incident and identified Exhibit P1 as the said statement. However, during his deposition, PW1 clearly stated that he had not witnessed the occurrence directly and that his knowledge regarding the incident was only hearsay in nature.
11. PW2 deposed that the deceased, Shaji, was his neighbour and that he had witnessed the accident. According to him, the incident occurred in front of the Mararikkulam Sub Registrar Office. He stated that while he was coming out of the said office, he saw the deceased Shaji riding a bicycle along the road. At that time, a car which was parked on the western side of the road suddenly opened its door, which struck the bicycle. As a result of the impact, Shaji fell onto the road. PW2 further deposed that immediately thereafter a KSRTC bus coming from behind ran over the body of Shaji, causing severe injuries to which he later succumbed. However, PW2 stated that he did not notice the registration number of the car involved in the incident and that he had not seen the driver of the said car. He nevertheless stated that the accident occurred due to the negligence of the person who opened the door of the car .
12. PW3 is another occurrence witness. He deposed that on 09.07.2019 at about 1.00 p.m., while the deceased Shaji was riding

his bicycle and when he reached in front of the Kalavoor Sub Registrar Office, a black Lancer car which was parked on the western side of the road suddenly had its door opened by the driver. According to PW3, the door struck the bicycle of the deceased, causing him to fall onto the road. He further stated that the deceased rolled once on the road and at that time a KSRTC Fast Passenger bus coming from behind ran over his body with its rear wheel. As a result of the injuries sustained in the accident, Shaji later succumbed. PW3 further deposed that the car was bearing registration number KL-56-G-5586 and that he had also seen the driver of the car at the time of the occurrence. During the examination of witnesses, the identification of the accused was not disputed by the defence counsel.

13. PW4 was the conductor of the KSRTC bus which allegedly ran over the body of the deceased, Shaji. He deposed that on 09.07.2019 at about 1.00 p.m., while he was working as the conductor in the KSRTC bus bearing registration number KL-15-A-451 (RSC 890), the bus reached in front of the Sub Registrar Office and at that time, while he was seated inside the bus, he noticed a black Lancer car parked in front of the Sub Registrar Office. According to PW4, when the door of the said car was suddenly opened, the bicycle ridden by the deceased struck against the door, as a result of which the deceased fell onto the road below the bus. PW4 further deposed that the car was bearing registration number KL-56-G-5586 and that it was a black Lancer car. He also stated that he had seen the driver of the said car at the time of the incident.

14. PW5 and PW6 were the attestors to the inquest report prepared by PW13. They identified their signatures in the inquest report, which was marked as Exhibit P2. PW7 was the doctor who conducted the

post-mortem examination of the deceased. He deposed regarding the injuries found on the body and opined that the death was caused by blunt force injuries to the chest, abdomen, and pelvis. He further identified the post-mortem certificate he issued as Exhibit P3.

15. PW8 is the attester to the scene mahazar prepared by PW13 by inspecting the place of occurrence and the scene mahzar was marked as Ext P4 . PW9 and PW11 was examined as an attester to the seizure mahazar prepared by PW13 in respect of the KSRTC bus involved in the accident . The seizure mahazar was marked as Ext. P5. PW10 was also an attester to the inquest report. He deposed that the deceased died after falling under a bus following a collision with a car. During cross-examination, he stated that he had witnessed the accident and had given his statement to the police. According to him, the deceased fell between the car and the bus and succumbed to his injuries.
16. PW12, the Motor Vehicle Inspector, deposed that he inspected the vehicles alleged to be involved in the accident on 11.07.2019 at around 2:00 p.m. at the premises of Mannachery police station . He examined the KSRTC bus bearing registration number KL-15-A-451 and the car bearing registration number KL-56-G-5586. He found that both vehicles had no mechanical defects and no damages. The inspection reports of the KSRTC bus and the car were marked as Exhibits P5 and P6, respectively.
17. PW13, the police officer who prepared the inquest of the deceased, deposed that on 09.07.2019 at Vandanam Medical College Hospital at around 3:45 p.m., he prepared the inquest. On examination, he found injuries on the right shoulder, right hand, and elbow. He also identified Exhibit P2 as his report. PW14, the Investigating Officer, deposed that based on Exhibit P1, the statement of PW1, he

registered Exhibit P8 FIR against the accused. He further visited the place of occurrence and prepared a mahazar. According to him, the place of occurrence was the portion of the road in front of the Sub Registrar Office, approximately 50 centimetres east of the western margin of the said road. He deposed that he arrested the accused and later released him on bail. The address report of the accused was marked as Exhibit P10. PW14 further deposed that he had seized the KSRTC bus and the car by preparing Exhibit P5 and P11 mahazars, respectively. Both vehicles were later inspected by the Motor Vehicle Inspector, and the certificates issued were produced before the court. After completing the investigation, he filed the charge sheet against the accused.

18. The defence argued that the prosecution had completely failed to prove that there was any gross negligence on the part of the accused which resulted in the death of Shaji . The learned defence counsel submitted that the prosecution evidence itself shows that the death was caused when the KSRTC bus ran over the body of the deceased. It was further argued that even if the prosecution version is assumed to be true, the act alleged against the accused cannot be considered the direct cause of the death of Shaji.

19. The only offence alleged against the accused is section 304 A of IPC . The essential ingredients to constitute the offence under section 304 A of IPC are the following :

- 1) Death of a person
- 2) Death was caused by the accused during any rash or negligent act.
- 3) Act does not amount to culpable homicide .

20. The death of Shaji in the alleged accident is undisputed .Ext P3

postmortem certificate would further show that his death was due to the blunt injuries sustained to his chest , pelvis . Now the question to be determined here is as to whether the prosecution could prove that it was the negligent act of the accused that resulted in death of shaji. In the decision in **Jacob Mathew v. State of Punjab and Another, 2005 (6) SCC 1** , the Hon'ble Supreme Court held that :

“the jurisprudential concept of negligence differs in civil and criminal law. To fasten liability in criminal law, the degree of negligence has to be higher than that of negligence enough to fasten liability for damages in civil law, ie., gross or of a very high degree. Negligence that is neither gross nor of a higher degree may provide a ground for action in civil law but cannot form the basis for prosecution.”

21. In the above decision, the Court further observed that :

“The word “gross” has not been used in Section 304-A IPC, yet it is settled that in criminal law negligence or recklessness, to be so held, must be of such a high degree as to be “gross”. The expression “rash or negligent act” as occurring in Section 304-A IPC has to be read as qualified by the word “grossly”.

22. In **Sushil Ansal v. State through CBI , 2014 (6) SCC 173** , the Hon'ble Apex Court held in paragraph 73 as follows :

“For an act of negligence to be culpable in criminal law, the degree of such negligence must be higher than what is sufficient to prove a case of negligence in a civil action.” “That negligence can constitute an offence punishable under Section 304-A of the IPC only if the same is proved to be gross, no matter the word “gross” has not been used by the

Parliament in that provision is the settled legal position.”

23. In the light of the above decisions it can be seen that, in order to prove the offence under Section 304-A IPC, the prosecution has to prove **gross negligence** on the part of the accused. Though PW3 and PW4 would claim that carelessness of the driver of the car as the reason for the accident, it is only a general statement, from which a reasonable conclusion cannot be arrived at, about the rashness and negligence involved. None of them have explained the reason for arriving at the conclusion that the driver was careless. In the above circumstance, from the evidence of PW3 and PW4 that the driver was careless, it cannot be ascertained whether there was gross negligence on his part.
24. From the evidence on record, it is seen that the accused is alleged to have parked his car in front of the Sub Registrar Office. Exhibit P4 scene mahazar describes the place of occurrence as being 50 centimetres east of the western margin of the road which is within the main road. On a careful perusal of the scene mahazar, along with the testimonies of the witnesses, it becomes evident that there is a conspicuous absence of material particulars necessary for forming a clear and complete understanding of the circumstances surrounding the incident. In particular, there is no indication whatsoever as to the manner in which the vehicle in question was parked—whether it was positioned parallel to the road, at an angle, or in any manner that could have contributed to or mitigated the occurrence. Furthermore, the evidence on record is wholly silent with respect to the width, gradient or the nature of the road at the relevant location .

25. PW2, who allegedly pointed out the place of occurrence to PW13, has also failed to depose before this Court regarding the exact location of the occurrence. The witnesses merely stated that the accused “negligently opened the door,” but no explanation was given as to how or why his act constituted negligence, which is essential to establish liability under Sections 304A IPC.
26. Furthermore, the evidence on record shows that the death of Shaji was caused when the KSRTC bus ran over his body. In **Kurban Hussein Mohamedalli Rangawalla v. State of Maharashtra** , AIR **1965 SC 1616**, the Hon’ble apex court has held that “ To impose criminal liability under **Section 304A** , **Indian Penal Code** , it is necessary that the death should have been the direct re-suit of a rash and negligent act of the accused, and that act must be the proximate and efficient cause without the intervention of another's negligence. It must be the causa causans; it is not enough that it may have been the cause sine qua non.”
27. In the absence of clear evidence establishing that the act of the accused was the direct and proximate cause of the fall and the subsequent death, the necessary nexus between the alleged act of the accused and the death of the deceased cannot be said to have been proved. Here, on analysing the entire prosecution evidence, it can be held that the prosecution has miserably failed to prove that it was any rash or negligent act of the accused that resulted in the death of Shaji. Hence these points are found against the prosecution .
28. **Point No 3** : In light of the finding on Points no.1 and 2 accused is found not guilty of the offences punishable u/S. 304A IPC.

In result, accused is acquitted of the offence punishable u/s

304A IPC , u/S.255(1) of Cr.P.C. His bail bond stands cancelled and he is set at liberty.

Dictated to the Confdl. Asst., typed by her, corrected by me and pronounced in open court on this 16th day of March, 2026.

Seethal.M. Sasidharan
Judicial First Class Magistrate -II

APPENDIX

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution Witness:-

Rank	Name	Whether Eye witness, Police witness, Expert witness, Medical witness, other witness
PW1	Anilkumar	Other witness
PW2	Suji	Eye witness
PW3	Santhosh	Eye witness
PW4	Nithin Kumar	Eye witness
PW5	Ratheesh	Eye witness
PW6	Aswin Kumar	Other witness
PW7	Dr.Anoop	Expert Witness
PW8	Sajith	Other witness
PW9	Bijumon	Police Witness
PW10	Raju	Other Witness
PW11	Sudheesh	Police Witness

PW12	K.Bijumon	Police Witness
PW13	N.Benny	Police Witness
PW14	K.Rajan Babu	Police Witness

B. Defence Witness:- Nil

C.Court Witness:- Nil

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution Exhibits :-

Sl. No.	Exhibit Number	Description
1	P1/PW1	First Information Statement dated 09.07.2019 proved on 02.12.2023
2	P2/PW5	Inquest Report dated 09.07.2018 proved on 05.03.2024
3	P3/PW7	Postmortem Report dated 10.07.2019 proved on 26.07.2024
4	P4/PW8	Scene Mahazar dated 10.07.2019 proved on 26.07.2024
5	P5/PW9	Vehicle Mahazar dated 11.08.2019 proved on 26.07.2024
6	P6/PW12	Vehicle Inspection Report dated 11.07.2019 proved on 21.06.2025
7	P7/PW12	Vehicle Inspection Report dated 15.07.2019 proved on 21.06.2025
8	P8/PW14	First Information Report dated 09.07.2019 proved on 28.01.2026
9	P9/PW14	Bail bond dated nil proved on 28.01.2026
10	P10/PW14	Address Report dated nil proved on 28.01.2026

11	P11/PW9	Seizure Mahazar dated nil proved on 26.07.2024
12	P12/PW14	Thirdparty Kychit dated 15.07.2019 proved on 28.01.2026
13	P13/PW14	Thirdparty Kychit dated 17.07.2019 proved on 28.01.2026

B. Defence Exhibits:- Nil

C.Court Exhibits:-

Sl. No.	Exhibit Number	Description
1	D1	Certified copy of order of Inpleading petiotion dated 01.07.2024 proved on 24.02.2026
2	D2	Certified copy of Inpleading petiotion dated 27.05.2024 proved on 24.02.2026

D.Material Objects:- Nil

Judicial First Class Magistrate-II,
Alappuzha